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27
28 **UNITED STATES DISTRICT COURT**
29
30 **NORTHERN DISTRICT OF CALIFORNIA**
31
32 **SAN FRANCISCO DIVISION**

33 LARRY PEARL, individually and on
34 behalf of others similarly situated,

35 Plaintiff,

36 v.

37 COINBASE, INC.,

38 Defendant.

39 Case No. 3:22-cv-03561-MMC

40 **DEFENDANT COINBASE, INC.'S MOTION**
41 **TO DISMISS THE FOURTH AMENDED**
42 **CLASS ACTION COMPLAINT;**
43 **MEMORANDUM OF POINTS AND**
44 **AUTHORITIES IN SUPPORT THEREOF**

45 Date: February 6, 2026

46 Time: 9:00 am

47 Dept.: Courtroom 7, 19th Floor

48 Judge: Hon. Maxine M. Chesney

NOTICE OF MOTION AND MOTION TO DISMISS

TO ALL PARTIES AND THEIR COUNSEL OF RECORD: PLEASE TAKE NOTICE
that on February 6, 2026 at 9:00 a.m., in the courtroom of the Honorable Maxine M. Chesney,
located in Courtroom 7, 19th Floor of the United States Courthouse, 450 Golden Gate Avenue, San
Francisco, CA 94102, Defendant Coinbase, Inc. will and hereby does move this Court to dismiss
the Fourth Amended Class Action Complaint (“FAC”) (Dkt. 127) in its entirety.

This Motion is based on the following Memorandum of Points and Authorities, the Declaration of Kristina A. Bunting and exhibits, the pleadings and other documents on file, all matters of which the Court may take judicial notice, and any other argument or evidence that may be received by the Court.

STATEMENT OF RELIEF SOUGHT

Coinbase, Inc. respectfully seeks an order dismissing the Complaint under Federal Rules of Civil Procedure 8, 9(b), and 12(b)(6) on the grounds that it fails to state a claim against it.

STATEMENT OF ISSUE TO BE DECIDED

1. Should all claims be dismissed with prejudice for failure to state a claim upon which relief can be granted pursuant to Federal Rules of Civil Procedure 8, 9(b), and 12(b)(6)?

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1 **I. INTRODUCTION**

2 This is the fifth iteration of a case that this Court has now twice dismissed in its entirety. In
 3 the Fourth Amended Complaint (the “FAC”), Plaintiff has merely reasserted claims and allegations
 4 that this Court rejected and did not permit him to replead; deleted allegations that this Court has
 5 previously held undermine his claims; and invented new theories that are contradicted by the very
 6 materials he cites. This latest attempt makes clear that Plaintiff cannot plead a viable case, and any
 7 further attempts would be futile. The FAC should be dismissed with prejudice.

8 Plaintiff’s negligent misrepresentation, Unfair Competition Law, and False Advertising
 9 Law claims (Counts I-III) fail because he cannot show that Coinbase made any actionable
 10 misrepresentation or omission. Plaintiff was only afforded leave to replead Claims I-III based on
 11 alleged misrepresentations by Coinbase about its “legitimacy” or its “reliability” (*i.e.* Coinbase’s
 12 review process before listing a digital asset). But Plaintiff merely rehashes his claims that he was
 13 misled about the collateralization or stability of UST and by the statement that stablecoins are “free
 14 from the volatility of non-pegged cryptocurrencies.” This Court already rejected the notion that
 15 Coinbase misrepresented UST’s volatility, including on the basis of the very statement he focuses
 16 on, because Coinbase’s website made clear that stablecoins, including UST, are only “designed”
 17 (*i.e.*, not guaranteed) to “**reduce** volatility **relative** to unpegged cryptocurrencies.” (Emphasis
 18 added.) Plaintiff now pivots to claiming that the statement misrepresented that UST could be
 19 impacted by LUNA, the cryptocurrency designed to assist UST in maintaining its peg. But this
 20 strained interpretation is belied by its context which makes clear that Coinbase was addressing the
 21 relative volatility of digital assets. In any event, LUNA’s impact on UST was fully disclosed in
 22 readily accessible sources **that Plaintiff cites**. Though Plaintiff has added repetitive allegations
 23 about what Coinbase said about its “review process” prior to listing UST (largely relying on
 24 statements that post-date his alleged loss), he does not actually allege that Coinbase **misrepresented**
 25 anything about its review. Plaintiff’s negligent misrepresentation claim also fails because he did
 26 not justifiably rely on Coinbase’s alleged misrepresentations and they did not cause his losses.

27 Plaintiff also fails to plead any omission forming the basis for his Unfair Competition Law
 28 and False Advertising Law claims (Counts II and III). The crux of Plaintiff’s claim is that Coinbase

1 either made partial and contradictory representations about, or had exclusive knowledge regarding:
 2 (1) the riskiness of UST's ecosystem, (2) the volatility of LUNA and its relationship with UST, and
 3 (3) that UST's creators had a history of failed crypto assets and were being investigated by the SEC.
 4 But Plaintiff fails to identify any representations by Coinbase that contradicted these facts or show
 5 that Coinbase had exclusive knowledge of them. The very facts that Plaintiff says were omitted
 6 were in fact publicly disclosed and readily accessible to Plaintiff, which is fatal to Plaintiff's claims.

7 Plaintiff's California securities law claims should also be dismissed because he fails to plead
 8 the statutory requirements. Counts IV and V replead claims the Court already dismissed without
 9 leave to amend, and they should be dismissed accordingly. Those claims also fail for the same
 10 reasons the Court has now twice identified: California law requires strict privity with the seller, yet
 11 Plaintiff alleges no facts showing he purchased UST from Coinbase. For the same reason, Plaintiff
 12 cannot state a claim for primary liability under §§ 25130/25503 (Count VI). Without a claim for
 13 primary liability, Plaintiff's claim for joint and several liability under section 25504 also fails.

14 Plaintiff's attempt to plead a claim under §§ 25400(d)/25500 (Count VII) is equally
 15 unavailing for several reasons; most obviously, Plaintiff has not plausibly alleged that Coinbase
 16 made a false statement or omission. Plaintiff's attempt to shoehorn a secondary liability claim into
 17 Count VII falls flat as Plaintiff has again failed to allege a predicate violation of the securities laws.

18 For the foregoing reasons, the Court should dismiss the FAC in its entirety with prejudice.

19 **II. RELEVANT ALLEGATIONS**

20 Plaintiff alleges that Coinbase operates an online platform for trading digital assets. *See*
 21 ¶¶ 69, 71-72. The FAC concerns a digital asset, UST, that was issued by a third party, Terraform
 22 Labs PTE, Ltd. ("Terraform"), and listed by Coinbase in 2021. ¶¶ 1-2.

23 **A. Coinbase Explained The Risks of Trading in Digital Assets and Other Terms of Use**

24 Plaintiff alleges that he purchased UST tokens using Coinbase's website in May 2022. ¶ 89.
 25 There is "no dispute" that Plaintiff "agreed to the 2022 User Agreement" to access Coinbase's
 26 platform, Dkt. 45 at 5, and that the agreement governed his use of the Coinbase website. *See*

1 Dkt. 38-2,¹ preamble. The User Agreement explained the risks of transacting in digital assets. The
 2 preamble cautioned that, as “with any asset, the value of Digital Assets can increase or decrease
 3 and there can be a substantial risk that you lose money buying, selling, holding, or investing in
 4 Digital Assets,” and warned Plaintiff to “carefully consider whether trading or holding Digital
 5 Assets is suitable for you.” Dkt. 38-2, preamble. The User Agreement explained that Plaintiff was
 6 “not buying Digital Assets from Coinbase or selling Digital Assets to Coinbase” and that instead
 7 Coinbase “facilitate[s] that purchase or sale between you and other Coinbase customers.” *Id.* at
 8 § 3.2. “Title to Digital Assets shall at all times remain with you and shall not transfer to
 9 Coinbase[,]” and “[n]one of the Digital Assets . . . are the property of, or shall or may be loaned to,
 10 Coinbase; Coinbase does not represent or treat assets . . . as belonging to Coinbase.” *Id.* at § 2.6.1.

11 B. Coinbase’s Website Informed Plaintiff About UST and Coinbase’s Review Process

12 Plaintiff claims he “researched UST on Coinbase’s website,” ¶ 50, and that Coinbase misled
 13 him about: (a) UST’s collateralization; (b) UST’s volatility or stability, including whether its price
 14 could be affected by its sister cryptocurrency, LUNA; and (c) the review process conducted by
 15 Coinbase before listing digital assets. ¶¶ 132-33. Putting aside that this Court did not grant Plaintiff
 16 leave to replead (a) and (b), the sources cited by Plaintiff made disclosures that contradict his claims
 17 and demonstrate that Coinbase’s statements were not misleading to any reasonable consumer.

18 ***Collateralization and Stability.*** As in the Second Amended Complaint (“SAC”) (Dkt. 49)
 19 and the Third Amended Complaint (“TAC”) (Dkt. 75), Plaintiff quotes selectively from Coinbase’s
 20 “What is a Stablecoin?” webpage. The page referred to stablecoins in general as being “designed”
 21 (*i.e.* not guaranteed) to “reduce volatility *relative* to unpegged cryptocurrencies like Bitcoin,” which
 22 “fluctuate[] a lot [in value]—sometimes by the minute.” Ex. 1² (emphasis added). Stablecoins can
 23 thus be used to “[m]inimize volatility.” *Id.* The very quote Plaintiff highlights (that “[s]tablecoins

24
 25 ¹ Dkt. 38-2, Exhibit 1 to the Declaration of Julie Erickson in Support of Plaintiffs’ Opposition to
 26 Defendants’ Motion to Compel Arbitration and Stay Proceedings (Dkt. 38-1) reflects the Coinbase
 27 User Agreement that Plaintiff signed on February 8, 2022. *See* Decl. of Suellen Black, Dkt. 30-1,
 28 at ¶ 22; Dkt. 45 at 3-4.

² All references to “Ex.” refer to exhibits to the Declaration of Kristina A. Bunting in support of
 this Motion, unless otherwise noted. As explained in the concurrently filed Request for Judicial
 Notice, the Court should consider these exhibits under Federal Rule of Evidence 201.

1 are free from the volatility of non-pegged cryptocurrencies,” *e.g.* ¶ 42) referred to stablecoins’
 2 volatility in relative terms (*i.e.*, relative to non-pegged cryptocurrencies).

3 Coinbase’s “TerraUSD Price” page, cited extensively by Plaintiff, described UST’s
 4 collateralization, explaining that it was not “backed by US dollars in a bank account,” and that
 5 “[i]nstead,” UST’s value depended on “burn[ing]” its “reserve asset,” LUNA. Ex. 2. The page
 6 also said that UST “attempts” to maintain its pegged value, but did not guarantee that it would do
 7 so. *Id.* Coinbase repeated its description of UST elsewhere. Ex. 3. On one page, Coinbase
 8 specifically identified UST as a “seigniorage algorithmic stablecoin,” which might “struggle[] to
 9 maintain a stable price.” Ex. 4. A Coinbase Blog post that Plaintiff appears to cite cautioned that
 10 “[c]rypto is a new type of asset. Besides potential day to day or hour to hour volatility, each crypto
 11 asset has unique features. Make sure you research and understand individual assets before you
 12 transact.” Ex. 5; *see* ¶ 49 (appearing to cite Ex. 5).

13 The “TerraUSD Price” page also contained a link to the Terraform whitepaper, which
 14 described the algorithmic link to LUNA that was intended to keep UST pegged to the U.S. dollar,
 15 and did not represent that UST was collateralized by dollars in a bank account. Exs. 2, 6. The
 16 Court previously noted that Plaintiff alleged “that he read and relied upon” the whitepaper, which
 17 “explicitly described ‘the UST algorithmic mechanism.’” Aug. 8 Order at 9. Plaintiff now claims
 18 he did not read the whitepaper (*see infra* § V.B.1), but he does not contend that the whitepaper did
 19 not disclose UST’s algorithmic mechanism, or that the whitepaper was inaccessible.

20 Investopedia, a “[r]eference source[]” (FAC ¶ 68) cited by Plaintiff³ explained that
 21 “[s]tablecoins achieve their price stability via collateralization (backing) or through algorithmic
 22 mechanisms.” Ex. 7, 8.⁴

23 **Coinbase’s Review Process.** Plaintiff claims that Coinbase made representations about its
 24 “review process” but does not identify when or where they were published or specify the specific
 25 representations that were allegedly misleading. ¶¶ 47-53. Plaintiff appears to cite a Coinbase

26
 27 ³ Plaintiff earlier said Investopedia reflected a reasonable consumer’s understanding. SAC ¶ 24.
 28 ⁴ Plaintiff alleges that Investopedia did not identify UST as algorithmic until April 11, 2022. But
 the key language was present throughout 2022. Ex. 7, *see Pearl v. Coinbase Glob., Inc.*, 2024 WL
 3416505, at *3 (N.D. Cal. July 15, 2024).

1 Security webpage titled “Most trusted. Most secure,” which stated as of May 11, 2022, that “[e]very
 2 digital asset on Coinbase goes through an extensive review process ensuring it meets our security
 3 and compliance requirements.” ¶¶ 49, 133, 153; Ex. 9. Coinbase did not suggest on this page that
 4 it undertook any testing of the volatility or stability of any digital asset—it is apparent from the
 5 context that “security” does not refer to price stability but instead, for example, to account and
 6 storage security. It also states nothing about UST at all.

7 Plaintiff also appears to point to statements on a page titled “Enhancing Trust with
 8 Regulatory Compliance.” ¶ 50; Ex. 10. This page explains that Coinbase considers “several
 9 factors” “[t]o determine the nature or level of compliance risks,” “including” “the history of the
 10 project team’s experience in related industry and crypto.” *Id.* It notes that Coinbase “seeks to
 11 exclude digital assets . . . where the asset is known or likely to defraud or harm consumers,” but
 12 nowhere suggests that its review guarantees that a digital asset is safe or protected from fraud. *Id.*

13 Many of Plaintiff’s other sources about Coinbase’s review process appear to have been
 14 published or created *after* May 2022, after Plaintiff purportedly purchased UST. *See* ¶ 48, Ex. 11
 15 (July 2022 podcast appearance by Coinbase CEO Brian Armstrong); ¶ 48, Ex. 12 (September 2024
 16 Coinbase Security landing page);⁵ ¶ 49, Ex. 13 (October 2022 Coinbase “Asset Listing Process”
 17 page, referring to “rigorous vetting/review process.”). Many representations allegedly made “at all
 18 relevant times,” in fact seem to be drawn from a *September* 2022 blog post. Ex. 14.⁶

19 C. UST Loses Parity With The U.S. Dollar

20 Plaintiff alleges that he purchased UST in May 2022. ¶ 89. For nearly the entire month of
 21 May—from May 7 onwards—the price of UST “showed signs of instability.” ¶ 82. It had dropped
 22 to 35 cents by May 9, 2022. *Id.* Plaintiff claims that he was damaged when UST failed to return
 23 to parity with the U.S. dollar. Yet again, Plaintiff does not allege that he bought UST only at a time

24
 25 ⁵ Plaintiff alleges that a representation cited in this paragraph was made by Armstrong during the
 26 podcast appearance, ¶ 48, it does not appear in the video. Ex. 10. Coinbase identified this error in
 27 its briefing on the motion to dismiss the TAC; Plaintiff has not corrected it. Dkt. 79. The language
 28 did not appear on the landing page in 2022. *See* Ex. 9.

26
 27 ⁶ The post contains language that is nearly identical to ¶ 50, which cites no source. For example,
 28 the post states that “around 90% [of tokens reviewed] never get considered for listing,” and that
 since launching an additional layer of review earlier in 2022, “the Listings team has identified
 nearly 100 projects with tokens that we perceive to be high risk and have chosen not to list.”

1 when it was at parity with the U.S. dollar—there were only six days out of 31 in May 2022 when
 2 that would have been possible. ¶¶ 82, 89.⁷ The FAC also omits any claim that Plaintiff was
 3 unaware of the price of one UST, or how it compared to the price of the U.S. dollar when he traded.
 4 That information was available to him, as the FAC demonstrates. ¶¶ 41, 43 n.5.

5 **III. DISMISSAL OF THE TAC AND LEAVE TO AMEND SPECIFIC CLAIMS**

6 The Court dismissed the TAC on August 8, 2025—the second dismissal of Plaintiff’s claims
 7 in their entirety. The Court again rejected Plaintiff’s core theory: that “‘reasonable consumers of
 8 cryptocurrencies’ understand ‘the established definition’ of a ‘stablecoin’ to be a ‘collateralized’
 9 cryptocurrency, *i.e.*, one ‘backed by an underlying tangible asset,’ thus having lower volatility, and,
 10 consequently, that Coinbase’s description of UST as a ‘stablecoin’ is false.” Aug. 8 Order at 5.

11 The Court granted Plaintiff leave to amend “**only** as to the following claims” (emphasis added):

- 12 • For negligent misrepresentation, Plaintiff was granted leave to amend his “additional
 13 theory”: an alleged misrepresentation relating to Coinbase being a trusted place to trade
 14 cryptocurrency (“legitimacy”) and/or the review process applied before listing a digital
 15 asset on Coinbase (“reliability”). Aug. 8 Order at 6-7, 14. The Court did **not** grant Plaintiff
 16 leave to replead his “primary theory,” which concerned the “collateralization or safety” of
 17 UST (*i.e.*, whether it was collateralized by dollars in a bank account or its level of volatility).
 18 *Id.* at 5-6, 14. Nor was he granted leave to plead an omission theory.
- 19 • Plaintiff was granted leave to amend his UCL and FAL claims to allege a “legitimacy and/or
 20 reliability” misrepresentation, or “to . . . rely on an omission theory.” *Id.* at 14; and
- 21 • Plaintiff was also granted leave to amend his claims under California Corporations Code
 22 §§ 25130, 25400(d), 25504, and 25504.1. *Id.*

23 **IV. LEGAL STANDARD**

24 To avoid dismissal under Federal Rule of Civil Procedure 12(b)(6), a plaintiff must plead
 25 “[f]actual allegations”—not legal conclusions—sufficient to “raise a right to relief above the
 26

27 ⁷ Plaintiff transacted in UST on May 9, 21, and 22, 2022—all days when UST was already trading
 28 significantly below the value of the U.S. dollar. Dkt. 30-1, Black Decl. ¶¶ 23-24; *see* ¶ 82 (35 cents
 by May 9, 2022). Plaintiff has never disputed this, and cannot do so. *See* Bunting Decl. at ¶ 24.

1 speculative level" and "state a claim to relief that is plausible on its face." *Bell Atl. Corp. v.*
 2 *Twombly*, 550 U.S. 544, 555, 570 (2007). Dismissal is appropriate where the complaint does not
 3 contain "factual content that allows the court to draw the reasonable inference that the defendant is
 4 liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). FRCP Rule 9(b)'s
 5 heightened standards apply to most of Plaintiff's claims. *Trombley Enters., LLC v. Sauer, Inc.*,
 6 2019 WL 452044, at *3 (N.D. Cal. Feb. 5, 2019) (negligent misrepresentation); *Brown v. Madison*
 7 *Reed, Inc.*, 622 F. Supp. 3d 786, 795 (N.D. Cal. 2022) (consumer law); *Espineli v. Toyota Motor*
 8 *Sales, U.S.A., Inc.*, 2019 WL 2249605, at *4 (E.D. Cal. May 24, 2019) (partial representation-based
 9 omissions); *Guo v. Robl*, 2023 WL 2683473, at *6 (C.D. Cal. Mar. 2, 2023) (state securities fraud).

10 The Court need not accept allegations that contradict a prior complaint "and may, in fact,
 11 strike the changed allegations as 'false and sham.'" *Azadpour v. Sun Microsystems, Inc.*, 2007 WL
 12 2141079, at *2 n.2 (N.D. Cal. July 23, 2007). Courts may consider prior allegations as judicial
 13 admissions. *Adams v. United of Omaha Life Ins. Co.*, 2013 WL 12113225, at *3 (C.D. Cal. Jan.
 14 10, 2013). Courts can take judicial notice of documents previously considered. *Huerta v. Ocwen*
 15 *Loan Servicing, LLC*, 2010 WL 2485936, at *2 (N.D. Cal. June 16, 2010); Aug. 8 Order at 6 n.4.

16 **V. ARGUMENT**

17 **A. Plaintiff's Negligent Misrepresentation Claim (Count I) Should Be Dismissed**

18 "Under California law, '[t]he elements of negligent misrepresentation are (1) the
 19 misrepresentation of a past or existing material fact, (2) without reasonable ground for believing it
 20 to be true, (3) with the intent to induce another's reliance on the fact misrepresented, (4) justifiable
 21 reliance on the misrepresentation, and (5) resulting damage.'" *Pearl*, 2024 WL 3416505, at *7
 22 (citation omitted). As with the TAC, Plaintiff's claim fails because he does not allege with
 23 particularity any misrepresentation, justifiable reliance, or causation.⁸

24 ⁸ The Court noted a "split" as to whether the economic loss rule bars negligent misrepresentation,
 25 e.g., Aug. 8 Order at 12, the better view is that it does. In *Robinson Helicopter Company, Inc. v.*
Dana Corporation, which the Ninth Circuit relied on in *Kalitta Air, L.L.C. v. Central Texas*
Airborne Systems, Inc., 315 Fed. App'x 603, 607 (9th Cir. 2008), did not address negligent
 26 misrepresentation. 34 Cal. 4th 979, 988, 991 n.7 (2004). After *Robinson*, the "clear pattern" that
 27 has emerged is that the rule bars claims for pure economic losses in cases like this, involving a
 28 commercial relationship and no allegation of intentional falsehoods or risk of physical harm. See,
 e.g., *Crystal Springs Upland Sch. v. Fieldturf USA, Inc.*, 219 F. Supp. 3d 962, 970 (N.D. Cal. 2016)
 (requiring affirmative misrepresentation and independent personal liability); *Robinson v. J.M.*

1. Coinbase Made No Alleged Misrepresentations⁹

To plead a misrepresentation, Plaintiff must show “more than a mere possibility” that a statement “might conceivably be misunderstood by some few customers viewing it in an unreasonable manner.” Aug. 8 Order at 4 (quoting *Ebner v. Fresh, Inc.*, 838 F.3d 958, 965 (9th Cir. 2016)). It instead requires “a probability that a significant portion of the general consuming public . . . acting reasonably in the circumstances, could be misled.” *Id.* “This is not a negligible burden.” *Moore v. Trader Joe’s Co.*, 4 F.4th 874, 882 (9th Cir. 2021). “Because the reasonable consumer inquiry is an objective standard, claims may be dismissed as a matter of law where an alleged statement, in context, is such that no reasonable consumer could be misled in the manner claimed by the plaintiff.” *Rugg v. Johnson & Johnson*, 2018 WL 3023493, at *3 (N.D. Cal. June 18, 2018) (cleaned up). Courts should also “take into account all the information available to consumers and the context in which the information is provided and used.” *Moore*, 4 F.4th at 882.

13 Plaintiff identifies **one** purportedly false statement—that “UST was ‘free from the volatility
14 of non-pegged cryptocurrencies.’” ¶¶ 5, 65, 132, 152, 170, 225. Plaintiff alleged that this statement
15 was misleading in the TAC because it misrepresented UST’s stability. The Court rejected that
16 claim and **did not** grant Plaintiff leave to replead it. Plaintiff’s claim should therefore be dismissed
17 at the threshold. *Raiser v. City of Los Angeles*, 2014 WL 794786, at *4 (C.D. Cal. Feb. 26, 2014)
18 (no abuse of discretion in dismissing portions of amended complaint that were not permitted).

19 In any event, Plaintiff's claim fails because the plain language and context of Coinbase's
20 statement demonstrates that it was not misleading to any reasonable consumer. *See Sneed v.*
21 *Talphera, Inc.*, 147 F.4th 1123, 1131 (9th Cir. 2025). This Court has twice held that Coinbase's
22 statements about the relative volatility of stablecoins compared to non-pegged cryptocurrencies
23 were not misleading because "Coinbase made clear on its website . . . that stablecoins are designed

²⁶ *Smucker Co.*, 2019 WL 2029069, at *6 (N.D. Cal. May 8, 2019) (same).

1 to reduce volatility” and did not represent they had “virtually no volatility.”¹⁰ Aug. 8 Order at 6
 2 (internal quotation marks omitted); *Pearl*, 2024 WL 3416505, at *4.

3 Attempting to circumvent this finding, Plaintiff adopts a contorted interpretation of a
 4 statement on a webpage addressing stablecoins in general. He claims that the statement
 5 “stablecoins are free from the volatility of non-pegged cryptocurrencies,” (Ex. 1 at 3) represented
 6 that UST was not intertwined with LUNA, the cryptocurrency behind its algorithmic stabilization
 7 mechanism, and that UST was not volatile. ¶¶ 132, 152, 170. But this interpretation makes no
 8 sense when the statement is read in context. The “What is a Stablecoin?” page the statement
 9 appeared on **compared** stablecoins generally with other digital assets that were not pegged to any
 10 external reference. *See supra* § II.B. It described stablecoins as being “designed to reduce volatility
 11 relative to unpegged cryptocurrencies like Bitcoin.” Ex. 1 at 2. Coinbase did not guarantee that
 12 stablecoins would always hold their value. It said that volatility was **reduced** compared to the
 13 volatility of other digital assets. Ex. 1 at 3-4 (“Stablecoins are free from the volatility of non-
 14 pegged cryptocurrencies”; “Minimize volatility. The value of cryptocurrencies like Bitcoin and
 15 Ether fluctuates a lot—sometimes by the minute.”). There was nothing on this page concerning
 16 UST, and there was no representation regarding UST’s relationship with its sister cryptocurrency.

17 Even adopting Plaintiff’s strained interpretation of the statement, UST’s relationship with
 18 LUNA was fully disclosed. Plaintiff **admits** that the TerraUSD Price webpage specifically
 19 disclosed that “in order to mint 1 TerraUSD, US\$1.00 worth of Terra USD’s reserve asset (LUNA)
 20 must be burned.” ¶ 45. Plaintiff attempts to evade this clear language by asserting that “no
 21 reasonable consumer of cryptocurrency in 2021–2022 would have understood from this one
 22 sentence that UST’s peg was reliant on an algorithm tethered to a volatile cryptocurrency.” *Id.*
 23 This ignores that the reference to LUNA quoted by Plaintiff appeared under the heading
 24 “AboutTerraUSD,” and that a link to the whitepaper followed immediately below, under the same
 25 “About” heading. As the Court has already held, **Plaintiff** previously alleged “that he read and

26
 27 ¹⁰ Plaintiff admits that he relied on “historical pricing” information, ¶ 41. This would have shown
 28 UST’s previous “depegging.” The version of the TerraUSD Price page **cited in the FAC** (¶ 43 n.5)
 (and TAC ¶ 56 n.8) stated that “[t]he price of [UST] has fallen by 21.20% in the past 7 days,” that
 its price “is \$0.788 per UST,” and quoted articles describing UST’s “[c]ollapse.” Ex. 2 at 3.

1 relied upon” the whitepaper, which “explicitly described ‘the UST algorithmic mechanism.’” Aug.
 2 8 Order at 9 (quoting TAC ¶ 131). The “UST algorithmic mechanism” described in the whitepaper
 3 explained UST’s relationship with LUNA in detail, including that “[t]he system uses Luna to make
 4 the price for Terra.” Ex. 6 at 5. By providing a link to the whitepaper, Coinbase disclosed how
 5 UST was intended to interact with LUNA. A reasonable consumer of cryptocurrencies “with
 6 money on the line” would not have been misled. *See Sneed* 147 F.4th, 1128.¹¹

7 **2. Plaintiff Fails to Plead Justifiable Reliance Because Any Reliance Was
 8 Unreasonable Under The Circumstances**

9 To plead justifiable reliance, Plaintiff must allege “actual reliance and that the reliance was
 10 reasonable.” *Prostar Wireless Grp., LLC v. Domino’s Pizza, Inc.*, 360 F. Supp. 3d 994, 1018 (N.D.
 11 Cal. 2018), aff’d, 815 F. App’x 117 (9th Cir. 2020). California courts do not “merely wink at this
 12 requirement, but rather take it quite seriously.” *Atari Corp. v. Ernst & Whinney*, 981 F.2d 1025,
 13 1031 (9th Cir. 1992). Justifiable reliance can be decided as a matter of law on a motion to dismiss
 14 “where the undisputed facts leave no room for a reasonable difference of opinion.” *McColgan v.
 15 Mut. of Omaha Ins. Co.*, 4 F. Supp. 3d 1228, 1233-34 (E.D. Cal. 2014).

16 **First**, for the same reasons that Plaintiff cannot allege that Coinbase’s statements were
 17 untrue, it was unreasonable for him to have interpreted them in the way he now claims he did.
 18 Plaintiff’s belief to the contrary “is manifestly unreasonable” because he could only have reached
 19 his conclusion by “clos[ing] his eyes to avoid discovery of the truth.” *Dodaro v. Standard Pac.
 20 Corp.*, 2012 WL 12948706, at *14 (C.D. Cal. Mar. 26, 2012).

21 **Second**, UST lost parity in early May 2022, the month that Plaintiff claims he made his
 22 purchases. ¶¶ 82, 89. Tellingly, although Defendant raised precisely this argument in relation to
 23 the SAC and the TAC, Plaintiff **still** does not allege that he purchased UST when it was at parity
 24 with the U.S. dollar—even when he had the opportunity to include any such allegation in the TAC
 25 and the FAC. Purchasing UST while it was already unpegged defeats justifiable reliance. It shows
 26 that Plaintiff’s irrational beliefs about UST were “so patently and obviously false that he must have

27
 28 ¹¹ A reasonable consumer of cryptocurrencies would have read this information with a general
 understanding that some stablecoins are algorithmically stabilized, *see* Aug. 8 Order at 5-6.

1 closed his eyes to avoid discovery of the truth.” *Seeger v. Odell*, 18 Cal. 2d 409, 415 (1941) (“If
 2 the conduct of the plaintiff in the light of his own intelligence and information was manifestly
 3 unreasonable . . . he will be denied recovery”); *Quintara Biosciences, Inc. v. Ruiifeng Biztech Inc.*,
 4 2020 WL 6118494, at *2 (N.D. Cal. Oct. 16, 2020) (“willful blindness . . . forecloses justifiable
 5 reliance”). Even if UST was at parity when acquired by Plaintiff, its potential volatility would have
 6 been obvious in the “historical pricing,” that Plaintiff allegedly relied upon. ¶ 41; *supra* n.10.

7 **Third**, it is unjustifiable to allege reliance when the contract that Plaintiff signed and other
 8 webpages warned him of the risks to which he claims he was blind. Dkt. 38-2, preamble; *see Woods*
 9 *v. Google, Inc.*, 889 F. Supp. 2d 1182, 1194 (N.D. Cal. 2012) (reliance on misstatements not
 10 reasonable where they contradicted plain language of contract); *Davis v. HSBC Bank Nev., N.A.*,
 11 691 F.3d 1152, 1162-64 (9th Cir. 2012) (affirming dismissal of fraudulent concealment claim where
 12 plaintiff could have discovered disputed fees by reading contract and disclosures). To the extent
 13 that Plaintiff says he relied on a few webpages, while ignoring the other information he concedes
 14 was available to him, that is unreasonable behavior. *McColgan*, 4 F. Supp. 3d at 1234.

15 **Finally**, Plaintiff could not have relied on misstatements made after May 2022—well after
 16 he purchased UST, after UST collapsed, and after Coinbase delisted UST. *See supra* § II.B; *Moore*
 17 *v. Apple, Inc.*, 73 F. Supp. 3d 1191, 1200-01 (N.D. Cal. 2014) (lack of reliance where
 18 misrepresentations or omissions “had not yet taken place.”).

19 **3. Plaintiff Fails to Plead That Coinbase’s Conduct Proximately Caused His
 20 Losses Because He Would Have Suffered His Losses No Matter What**

21 Plaintiff’s threadbare allegations, ¶¶ 158-59, are insufficient to explain why Coinbase
 22 caused his losses. *Kwang Tae Kim v. JPMorgan Chase Bank, N.A.*, 2017 WL 8186672, at *3 (C.D.
 23 Cal. July 27, 2017) (conclusory statement insufficient to allege causation). It was the unstaking of
 24 \$2 billion of UST from the protocol and the mass selling of UST in May 2022 that caused Plaintiff’s
 25 losses, not anything Coinbase did or did not do. *See* ¶ 8; *BMA LLC v. HDR Glob. Trading Ltd.*,
 26 2021 WL 4061698, at *11 (N.D. Cal. Sept. 7, 2021) (dismissing for lack of standing when
 27 plaintiffs’ “damages only occurred once their positions were liquidated,” which “could have been
 28 due to the acts by third parties or inherent market forces”).

B. Plaintiff Fails To Plead Violation Of The Unfair Competition Law (Count II)

2 California’s Unfair Competition Law prohibits “unlawful, unfair or fraudulent business
3 act[s] or practice[s] and unfair, deceptive, untrue or misleading advertising.” Cal. Bus & Prof.
4 Code § 17200 et seq. Plaintiff’s claims under the “unlawful” and “unfair” prongs contain no factual
5 or legal analysis (e.g., ¶¶ 145, 147, which lists statutory provisions), so do not state a claim. These
6 allegations are also derivative of and assume the success of the misrepresentation, omission, and
7 statutory claims made elsewhere in the FAC, and fail for the same reasons as the claims they borrow
8 from. *Pearl*, 2024 WL 3416505, at *5; Aug. 8 Order at 4. Under the “fraudulent” prong, Plaintiff
9 alleges that Coinbase deceived the public through misrepresentations or omissions. ¶ 149. His
10 misrepresentation theory restates his negligent misrepresentation claim, and fails for the same
11 reasons (*supra* § V.A). And Plaintiff’s omission claims fail for the reasons set out below.

1. Plaintiff Fails to Plead Any Omission

13 Insofar as Plaintiff’s consumer protection claims are based on an omission theory (see
14 ¶ 157), the FAC fails at the first hurdle, because it falls well short of Rule 9(b)’s requirement “to
15 plead the circumstances of omission with specificity,” including “describ[ing] the content of the
16 omission and where the omitted information should or could have been revealed.” *Marolda v.*
17 *Symantec Corp.*, 672 F. Supp. 2d 992, 1002 (N.D. Cal. 2009).¹² As best as can be discerned,
18 Plaintiff now alleges that Coinbase omitted the following information:

19 • that “not all stablecoins use ‘reserve’ assets to maintain a peg,” and that some would
20 “attempt to maintain their pegged value through an algorithm dependent on a volatile
21 cryptocurrency”; ¶ 44¹³

22 • “that the entire Terraform ecosystem was risky”; ¶¶ 61, 135, 155, 157, 173, 175;¹⁴

¹² Plaintiff's earlier complaints identified the "specific omissions" alleged. *See, e.g.*, ¶ TAC 139.

25 ¹³ Plaintiff does not identify any duty to disclose this alleged omission. The “What is a stablecoin?”
26 page does not contradict it, and Plaintiff alleges no other partial misrepresentation. *See infra* §
27 V.B.1.a. It also was not in Coinbase’s exclusive knowledge—the Court already found that a
reasonable consumer *would* have understood that some stablecoins are algorithmic. Aug. 8 Order
at 5-6. And Coinbase specifically identified UST as algorithmic on its website, explained that it
was not collateralized, and linked to the whitepaper containing further details. Exs. 2-4, 6.

¹⁴ Plaintiff restates this already-rejected allegation, without adding further facts. See TAC ¶ 144.

- “that UST’s sister token, LUNA, was responsible for maintaining UST’s peg and that LUNA was especially volatile” ¶¶ 135, 155, 157, 173, 175;¹⁵
- that LUNA had a propensity to cause its pegged stablecoins to depeg/that other stablecoins linked to LUNA had depegged; ¶¶ 134, 154, 172;
- “that the key individuals responsible for the Terraform ecosystem—Do Kwon in particular—had a history of failed crypto assets, including a prior failed algorithmic stablecoin,” ¶¶ 61, 135, 155, 157, 173, 175; and
- that the SEC was investigating Do Kwon and Terraform Labs, ¶¶ 154, 172.

9 Omissions are not generally actionable except where the omitted fact is “contrary to a
10 material representation actually made by the defendant or is a fact the defendant was obliged to
11 disclose.” *Pearl*, 2024 WL 3416505, at *4 (cleaned up); *see ¶¶ 85-86*. None of the alleged
12 omissions are contrary to a representation by Coinbase, or were in its “exclusive or superior
13 knowledge” giving rise to a disclosure obligation.

(a) *Partial Representations*

15 “[T]he failure to disclose a fact can constitute actionable fraud . . . when the defendant
16 makes partial representations that are misleading because some other material fact has not been
17 disclosed.” Aug. 8 Order at 8, quoting *Opperman v. Path, Inc.*, 84 F. Supp. 3d 962, 984 (N.D. Cal.
18 2015). This requires a showing that the challenged statement “plausibly contradicts the alleged
19 omissions.” *Anderson v. Apple Inc.*, 500 F. Supp. 3d 993, 1014 (N.D. Cal. 2020).

20 Plaintiff specifically alleges that Coinbase made two partial representations that gave rise
21 to its “Duty to Disclose the True Nature and Risks of UST” (¶¶ 65, 86): (1) that UST was a
22 “stablecoin” that “attempts to maintain a value of US \$1.00.”; and (2) defining a stablecoin on its
23 “What is a Stablecoin” webpage, including representing that stablecoins are “free from the volatility
24 of non-pegged cryptocurrencies.” Plaintiff contends that those representations “omitted that UST
25 is, in fact, inextricably linked to a non-pegged cryptocurrency, and a particularly volatile one at
26 that.” ¶ 86. But none of the alleged omissions are actionable, because they do not “contradict” the

¹⁵ Plaintiff also alleges that a third cryptocurrency, “wrapped LUNA” or “WLUNA” was volatile, but does not explain how this is material to any omission concerning UST.

1 alleged representations. If anything, the first alleged partial representation (that UST *attempts* to
 2 maintain its value) contradicts *Plaintiff's* core theory—it plainly states that UST will only *attempt*
 3 to maintain its value. The second alleged partial representation is identical to the misrepresentation
 4 alleged by Plaintiff, and fails for the same reasons. *Supra* § V.A.

5 Elsewhere in the FAC, Plaintiff vaguely suggests that Coinbase had a duty to disclose the
 6 link between UST and LUNA, prior depegging events, and negative information relating to
 7 Terraform and Do Kwon, such as the SEC investigation. ¶¶ 49, 134-35, 154-55, 157, 172-73.
 8 Coinbase allegedly had a duty to disclose this information because it represented that “every digital
 9 asset on Coinbase goes through an extensive review process ensuing it meets our security and
 10 compliance requirements,” including “due diligence on the key members of the team.” ¶¶ 49, 133-
 11 34, 153-54, 171-72. Plaintiff alleges that when Coinbase listed UST on its platform, it implicitly
 12 represented that it had passed the review process. ¶¶ 135, 155, 157, 173.

13 Again, none of the allegedly omitted information contradicts any alleged partial
 14 representations, rendering them actionable. The representations alleged by Plaintiff are that
 15 digital assets listed on Coinbase go through a review process, and that this includes due diligence
 16 on team members. Plaintiff acknowledges that those statements were *true*. ¶ 11. That is the end
 17 of the matter—the FAC contains no allegation that Coinbase represented that it would make
 18 negative information identified during its review public. None of the alleged omissions contradict
 19 the accurate statement that Coinbase would review assets prior to listing them. It was not a half-
 20 truth rendered misleading by omitting (for example) details of the SEC investigation. In any event,
 21 omission claims premised on a duty to disclose fail where the allegedly omitted facts were, in fact,
 22 disclosed. *See Pearl*, 2024 WL3416505 at *4; *Terpin v. AT&T Mobility, LLC*, 2020 WL 5369410,
 23 at *4 (C.D. Cal. Sept. 8, 2020). As explained below, much of the allegedly omitted information
 24 (like UST’s prior depegging) was disclosed to Plaintiff *by Coinbase*. *Infra* § V.B.1.b.

25 *(b) Exclusive or Superior Knowledge*

26 “[A] defendant has exclusive knowledge of material facts giving rise to a duty to disclose
 27 where according to the complaint, [the defendant] knew of [a material fact] while plaintiffs did not,
 28 and, given the nature of the [material fact], it was difficult to discover.” Aug. 8 Order at 10.

1 Plaintiff alleges that Coinbase had superior information concerning (a) “the true nature of UST,
 2 including that UST was based on an uncertain and untested algorithm,” ¶ 85; (b) “prior depegging
 3 events involving UST as well as other Terra stablecoins tethered to LUNA,” ¶¶ 134, 154, 172; and
 4 (c) “the SEC investigation into Do Kwon and Terraform Lab’s Mirror Protocol,” ¶¶ 134, 154, 172.

5 To successfully show that Coinbase had exclusive or superior knowledge, Plaintiff must
 6 show that he was **unable** to find the allegedly omitted information elsewhere, taking into account
 7 the “nature of the product, the nature of the alleged omission, and the difficulty in reasonably
 8 finding the omitted information from sources other than the defendant.” *Pearl*, 2024 WL 3416505,
 9 at *5 (internal quotation omitted); *see Herron v. Best Buy Co. Inc.*, 924 F. Supp. 2d 1161, 1175
 10 (E.D. Cal. 2013) (claim defendant had “superior knowledge” unsuccessful where plaintiff “could
 11 have readily recognized any deficiencies,” and the information was reported in *Newsweek*). The
 12 information in question was publicly known, widely disseminated, and easily discoverable by
 13 reasonable consumers of cryptocurrency. Most of it was even disclosed to Plaintiff **by Coinbase**:

14 **UST’s Nature.** Plaintiff complains that “Coinbase . . . was at all relevant times aware of
 15 the true nature of UST, including that UST was based on an uncertain and untested algorithm.”
 16 ¶ 85. Plaintiff could have “reasonably [found] the omitted information” by reading the whitepaper,
 17 which Coinbase provided a link to on the TerraUSD page. *Pearl*, 2024 WL 3416505, at *5; *see*
 18 *supra* § V.A.1. The Court previously found that Plaintiff “read and relied upon a Terraform
 19 whitepaper that explicitly described ‘the UST algorithmic mechanism.’” Aug. 8 Order at 9 (citing
 20 TAC. ¶ 131). Plaintiff attempts to escape that finding, claiming that he “did not read the UST
 21 whitepaper and did not know that UST was tied to LUNA.” ¶ 134. Plaintiff never challenged the
 22 Court’s finding that he read the whitepaper. On the contrary, Plaintiff repeatedly alleged that he
 23 was misled **by the whitepaper** during more than three years of litigation and across over four
 24 separate complaints. *See* Class Action Complaint (Dkt. 1) and First Amended Complaint (Dkt. 28)
 25 at ¶¶ 27-29, 35-36; SAC at ¶¶ 52-53; TAC at ¶¶ 58-59, 141-142. Plaintiff has realized that he
 26 “plead[ed] himself out of court” by invoking the whitepaper. *Weisbuch v. Cnty. of Los Angeles*,
 27 119 F.3d 778, 783 n.1 (9th Cir. 1997). The Court should not countenance his implausible about-
 28 face. Aug. 8 Order at 6 n.4 (quoting *Stanislaus Food Prod. Co. v. USS-POSCO Indus.*, 782

1 F.Supp.2d 1059, 1075 (E.D. Cal. 2011) (“[t]he Court does not ignore the prior allegations in
 2 determining the plausibility of the current pleadings”).

3 Even if Plaintiff did not read the whitepaper, the allegedly omitted information was readily
 4 available to him, which is sufficient. Aug. 8 Order at 8 (Courts consider difficulty of discovering
 5 allegedly omitted fact); *Rubenstein v. The Gap, Inc.*, 14 Cal. App. 5th 870, 878 (2017) (no exclusive
 6 knowledge of quality difference between items, where consumers could examine them before
 7 purchase, and could review details on label). Coinbase described UST’s algorithmic link to LUNA
 8 (*see supra* § V.A.1), provided a link to the whitepaper on the TerraUSD Price page that Plaintiff
 9 viewed, and elsewhere on its website specifically described UST as a “seigniorage algorithmic
 10 stablecoin” which might “struggle[] to maintain a stable price.” Ex. 4. In short, Coinbase disclosed
 11 the very information it is alleged to have omitted.

12 **Prior “Depegging Events.”** Plaintiff’s own pleading undermines his claim that “Coinbase
 13 had exclusive or superior knowledge of prior depegging events involving UST as well as other
 14 Terra stablecoins tethered to LUNA.” ¶¶ 134, 154, 172. Plaintiff alleges that he relied upon
 15 “historical pricing” information and “trading activity” provided by Coinbase. ¶ 41. The TerraUSD
 16 Price page showed “ALL” of UST’s price history.¹⁶ This would have shown the prior depegging
 17 events. Again, Plaintiff has pleaded himself out of court—the historical pricing information that
 18 he cites disclosed the allegedly omitted information.

19 **Terraform SEC Investigation.** The SEC investigation into Do Kwon and Terraform was
 20 well publicized before Plaintiff purchased UST in May 2022. The SEC filed a subpoena
 21 enforcement action and issued a press release about its investigation in November 2021. Exs. 15,
 22 16. A month prior, Terraform filed a publicized lawsuit against the SEC, alleging (among other
 23 things) that the SEC had publicly served Do Kwon at a well-attended event in New York. Exs. 17,
 24 18, 19, 20, 21.¹⁷ A reasonable consumer of cryptocurrencies could have readily found this widely-

25
 26 ¹⁶ Plaintiff has not shown that information about alleged depegging of “TerraKRW” and “THT”
 27 was exclusively known to Coinbase, or that he could not readily discover it. The whitepaper
 28 described the intention to create stablecoins linked to other currencies. Ex. 6 at 2. Any depegging
 of these stablecoins would have been discoverable. Plaintiff also does not plead how the depegging
 of TerraKRW or THT was material to his decisions or bore on the risks of UST.

¹⁷ These articles are illustrative examples. Plaintiff cited a Coindesk article in the FAC. n.10.

1 disseminated information. *Gray v. Toyota Motor Sales, U.S.A.*, 2012 WL 313703, at *8 (C.D. Cal.
 2 Jan. 23, 2012) (no exclusive knowledge of newsworthy topic that was subject of media attention).

3 Plaintiff tacitly admits that the purportedly omitted information was publicly disclosed,
 4 attempting to sidestep that fact by asserting that he “would not know to look for such sources or
 5 how to obtain the correct information, let alone be able to comprehend them.” ¶¶ 134, 154, 172.
 6 That is beside the point—that Plaintiff might not have understood information available to him is
 7 insufficient. *Dinan v. Sandisk LLC*, 2019 WL 2327923, at *7 (N.D. Cal. May 31, 2019) (claim that
 8 reasonable consumers deceived because of potentially confusing technological details insufficient).

9 **C. If UST Is A Security, Then The UCL Does Not Apply**

10 If the Court finds that this case involves a securities transaction (a finding that Coinbase
 11 would strongly dispute, *see infra* § V.E.5), then the UCL “does not apply.” *Wright v. Charles*
 12 *Schwab & Co.*, 2021 WL 1056838, at *7 (N.D. Cal. Mar. 18, 2021); *see also Cress v. Nexo Fin.*
 13 *LLC*, 2023 WL 6609352, at *13 (N.D. Cal. Oct. 10, 2023).

14 **D. Plaintiff Fails To Plead A Violation Of The False Advertising Law (Count III)**

15 The False Advertising Law (“FAL”) (Cal. Bus. & Prof. Code § 17500) requires that Plaintiff
 16 prove he “suffered some economic injury, that [Coinbase] engaged in a deceptive or unfair practice,
 17 and that the deceptive practice caused [Plaintiff’s] injury.” *Tillage v. Comcast Corp.*, 2021 WL
 18 2177225, at *1 (N.D. Cal. May 28, 2021). Plaintiff’s FAL claim is based on the same alleged
 19 misrepresentation and omissions as his negligent misrepresentation and UCL claims and fails for
 20 the same reasons, *see supra* §§ V.A, V.B—he cannot prove any actionable misstatements or
 21 omissions constituting a deceptive practice, or that the purported misconduct caused his injuries.

22 **E. Plaintiff Fails To Plead Any Violation Of The California Securities Laws
 (Counts IV, V, VI, and VII)**

23 **1. Plaintiff’s Claim under Cal. Corp. Code §§ 25110 & 25503 Fails (Count IV)**

24 Plaintiff alleges that Coinbase violated California Corporations Code §§ 25110 and 25503.
 25 ¶¶ 184-95. Section 25110 makes it unlawful “to offer or sell in this state any security in an issuer
 26 transaction” without qualification, § 25503 provides the cause of action. Plaintiff must plausibly
 27 allege that he was in privity with Coinbase in that he purchased the relevant alleged security **from**
 28

1 *Coinbase*. *Hayes v. Scherer*, 2023 WL 5507072, at *3 (C.D. Cal. July 3, 2023). Count IV is
 2 identical to Count V in the TAC (¶¶ 198-208), which the Court dismissed and **did not** grant leave
 3 to amend. Aug. 8 Order at 14. Count IV should be rejected as an improper attempt to replead a
 4 previously dismissed cause of action. *See supra* § V.A.1.

5 Plaintiff's unchanged claim also fails for the reasons set out in the Court's prior decisions
 6 dismissing the SAC and TAC. In dismissing the SAC, the Court held that this claim was subject
 7 to dismissal because each statute "only applies to an entity that either offers to sell or sells a
 8 security," and that Pearl, in the SAC, had alleged only that Coinbase acted as an "intermediary"
 9 and had not alleged that "defendants themselves sold any UST to plaintiff." *Pearl*, 2024 WL
 10 3416505, at *8. In dismissing the TAC, the Court noted that "although Pearl has changed the word
 11 'intermediary' to the phrase 'indispensable party' (compare SAC ¶ 41 with TAC ¶ 52), he has not
 12 added any allegations that are inconsistent with Coinbase's identity as an intermediary rather than
 13 a seller." Aug. 8 Order at 12. Plaintiff does no better here; he does not add allegations showing
 14 that Coinbase passed title to Plaintiff.¹⁸ Where Plaintiff changed the word "intermediary" to
 15 "indispensable party" between the SAC and the TAC, he has now simply **deleted** that sentence of
 16 the complaint altogether. *Compare* TAC ¶ 52 with FAC ¶ 75.¹⁹ Thus, Plaintiff's fifth bite at the
 17 apple once again "has not added any allegations that are inconsistent with Coinbase's identity as
 18 an intermediary rather than a seller," and his claims must be dismissed. Aug. 8 Order at 12.²⁰

19 Plaintiff's claim fails for the independent reason that it does not adequately allege an "issuer
 20 transaction," which must be "directly or indirectly for the benefit of the issuer." Cal. Corp. Code § 25011. Here, Plaintiff has not plausibly alleged that the "issuer" of UST—
 21 Terraform Labs, ¶ 1—received "any portion of the purchase price"—as required to be a "transaction
 22

24 ¹⁸ The User Agreement clearly states that when users buy "Digital Assets on the Coinbase Site, [they] are not buying Digital Assets from Coinbase," Dkt. 38-2, § 3.2, and that "[t]itle to Digital Assets shall at all times remain with [the user] and shall not transfer to Coinbase," *id.* at § 2.6.1.

25 ¹⁹ But "[t]he Court does not ignore the prior allegations in determining the plausibility of the current pleading." Aug. 8 Order at 6 n.4 (quoting *Stanislaus Food*, 782 F. Supp. 2d at 1076).

26 ²⁰ The Court previously held that allegations "that Coinbase offered to sell UST by soliciting sales of UST through numerous mass media platforms" do not establish the privity required. Aug. 8 Order at 13 (internal quotation marks omitted). Plaintiff repeats these allegations in the FAC, e.g., ¶¶ 77, 188, and they are just as unpersuasive as in the TAC. *See* Aug. 8 Order at 13.

1 indirectly for the benefit of the issuer”—for Plaintiff’s UST transactions on Coinbase. *See id.*;
2 *Goller v. Nat’l Life of Fla. Corp.*, 554 F.2d 1349, 1352 (5th Cir. 1977) (noting California law limits
3 an issuer transaction “to situations where some type of monetary consideration flows to the issuer”).
4 Plaintiff’s new claim is that the UST transactions on Coinbase “conferred a direct or indirect benefit
5 on Terraform Labs” because “[t]he sale of UST on Coinbase enabled Terraform Labs to sell more
6 UST,” and therefore “Terraform Labs directly or indirectly received portions of the purchase price
7 of UST.” ¶ 191. But this is wholly conclusory; Plaintiff does not explain how his purchases of
8 UST led to Terraform directly or indirectly receiving a portion of the purchase price *of those sales*.
9 Indeed, Plaintiff’s theory would transform nearly any transaction into an issuer transaction. Next,
10 Plaintiff claims that “Terraform Labs was in a common enterprise with Plaintiff and other UST
11 investors.” *Id.* But the “common enterprise” analysis for purposes of defining a security has no
12 bearing on defining an “issuer transaction” under the California securities law.

2. Plaintiff's Claim under Cal. Corp. Code §§ 25401 & 25501 Fails (Count V)

14 Under § 25401, Plaintiff “must allege that there was a sale or purchase of stock in California
15 by fraudulent untrue statements or by omitting material facts that would by omission make the
16 statements misleading.” *MTC Elec. Techs. Co. v. Leung*, 876 F. Supp. 1143, 1147 (C.D. Cal. 1995).
17 Section 25501 provides a cause of action for a violation of § 25401. As with Count IV, Plaintiff
18 has improperly attempted to replead a violation of § 25401—the same violation alleged in Count
19 VI of the TAC—without leave to amend. *Compare ¶¶ 196-206 with TAC ¶¶ 209-18; see* Aug. 8
20 Order at 14. For that reason alone, Count V must be dismissed. *See supra §§ III, V.A.1, V.E.1.*

21 In any event, for the same reasons discussed with respect to his §§ 25110 and 25503 claim,
22 Plaintiff's attempt to replead a violation of §§ 25401 and 25501 fails, as it did in the TAC, for a
23 failure to plausibly allege privity of sale. *See supra* § V.E.1; Aug. 8 Order at 12-13. And as yet
24 another independent basis to dismiss this claim, Plaintiff has not pleaded with particularity that
25 Coinbase made an “untrue statement of a material fact or omit[ted] to state a material fact.” Cal.
26 Corp. Code § 25401; *see supra* §§ V.A, V.B; *Kalin v. Semper Midas Fund, Ltd.*, 2022 WL
27 16935782, at *6 (N.D. Cal. Oct. 12, 2022) (dismissing §§ 25401/25501 claim where plaintiff “failed
28 to plausibly allege that a materially false or misleading statement was made at the time of

1 disclosure"); *see Guo*, 2023 WL 2683473, at *6 (such claims "must adhere to [FRCP Rule] 9(b)").

2 **3. Plaintiff's Cal. Corp. Code §§ 25130 & 25503 Claim Fails (Count VI)**

3 Section 25130 makes it "unlawful for any person to offer or sell any security in this state in
4 any nonissuer transaction unless it is qualified for such sale." Cal. Corp. Code § 25130.

5 *(a) Plaintiff Fails to Allege a Primary Violation of §§ 25130 and 25503*

6 Like the prior California securities law claims alleged by Plaintiff, a primary claim under
7 §§ 25130 and 25503 requires privity of sale, and Plaintiff must plausibly allege that he purchased
8 the assets *from Coinbase*. *See* Aug. 8 Order at 12. The language of § 25130 is identical in all
9 relevant respects to § 25110. Moreover, under § 25503, which provides the private cause of action
10 for a violation of § 25110 or § 25130, "[a]ny person who violates Section . . . 25130 . . . shall be
11 liable to any person acquiring from them the security sold in violation of that section." Cal. Corp.
12 Code § 25503 (emphasis added). In other words, Plaintiff must allege privity of sale with Coinbase
13 to state a violation. *Zakinov v. Ripple Labs, Inc.*, 2020 WL 922815, at *16 (N.D. Cal. Feb. 26,
14 2020) ("[T]he court concludes that plaintiff must allege privity to state a claim under § 25503.").
15 As Plaintiff fails to plausibly allege privity, *supra* § V.E.1, his claim under §§ 25130 and 25503
16 fails.

17 *(b) Plaintiff's Claim for Joint and Several Liability Under § 25504 Fails*

18 Plaintiff also alleges that Coinbase is "jointly and severally liable" for a violation of § 25130
19 under § 25504. FAC ¶ 219. Section 25504 imposes joint and several liability for those who
20 "materially aid[] in the act or transaction constituting the violation" of § 25501 or § 25503 "unless
21 the other person who is so liable had no knowledge of or reasonable grounds to believe in the
22 existence of the facts by reason of which the liability is alleged to exist." Cal. Corp. Code § 25504.

23 To allege that Coinbase materially aided a violation of the California securities laws,
24 Plaintiff must first plead a predicate violation. *See In re All. Equip. Lease Program Sec. Litig.*,
25 2002 WL 34451621, at *11 (S.D. Cal. Oct. 15, 2002) ("§ 25504 requires a primary violation");
26 *Jackson v. Fischer*, 931 F. Supp. 2d 1049, 1064 (N.D. Cal. 2013) (allegations of primary liability
27 are "a predicate to liability under § 25504"). Plaintiff pleads no such violation. He fails to specify
28

1 what conduct, and by whom, Coinbase purportedly aided. While the FAC alleges that Coinbase is
 2 liable “along with Terraform Labs and any other seller,” Plaintiff nowhere specifies *who* directly
 3 violated § 25130 under this theory. ¶ 219. Plaintiff’s vague attempt to tie Coinbase’s liability to
 4 Terraform contains no allegation that Terraform directly sold UST to Plaintiff. As discussed above,
 5 to state a claim under §§ 25130 and 25503, Plaintiff must allege privity of sale with the primary
 6 violator. *Moss v. Kroner*, 197 Cal. App. 4th 860, 875 (2011) (“original direct violator” must be “in
 7 privity with the plaintiff”); *Bains v. Moores*, 172 Cal. App. 4th 445, 479 (2009) (“plaintiffs have
 8 not demonstrated that they could allege that they purchased securities from” primary violator.).
 9 Without a primary violator, Plaintiff cannot assert liability through § 25504. *Cf. Kalin*, 2022 WL
 10 16935782, at *6 (§ 25504 claims “fail because plaintiff has not stated a primary claim”).²¹

11 An independent reason for dismissal is that Plaintiff does not specify under what theory
 12 Coinbase would be liable. Plaintiff does not say whether Coinbase is allegedly a control person,
 13 broker-dealer, or agent, as required by the statute. *See* Cal. Corp. Code § 25504. While the FAC
 14 defines “broker-dealer,” it does not allege that *Coinbase* is in fact a broker-dealer. ¶ 222. Even
 15 setting those issues aside, to be liable under § 25504, Plaintiff must allege that Coinbase “materially
 16 aided, not simply in the transaction, but *in the violation*.” *Apollo Cap. Fund, LLC v. Roth Cap.*
 17 *Partners, LLC*, 158 Cal. App. 4th 226, 256 (2007) (emphasis added). Here, Plaintiff does not allege
 18 that Coinbase materially aided in the specific violation here—while he alleges that “[i]nvestors
 19 purchased UST to make a profit,” including by “staking” their tokens, he nowhere alleges that
 20 *Coinbase* materially aided in those transactions or that the specific UST transactions at issue here
 21 had anything to do with “staking” or the “Anchor Protocol.” ¶ 34; *see infra* § V.E.5.

22 **4. Plaintiff Fails to Plead Either a Primary Violation of Cal. Corp. Code
 23 §§ 25400(d) & 25500 or a Secondary Liability Claim (Count VII)**

24 *(a) Plaintiff Fails to Plead a Primary Violation of §§ 25400(d) and 25500*

25 Plaintiff does not adequately allege a violation of §§ 25400(d) and 25500. “Section 25400
 26 prohibits false and misleading statements designed to manipulate the securities markets.” *Cal.*

27 ²¹ Without Plaintiff identifying a primary violator, there is no way to assess whether the “other
 28 person who is so liable had no knowledge of or reasonable grounds to believe in the existence of
 the facts by reason of which the liability is alleged to exist.” Cal. Corp. Code § 25504.

1 *Amplifier, Inc. v. RLI Ins. Co.*, 94 Cal. App. 4th 102, 108 (2001). A person may be liable only if
 2 they are “a broker-dealer or other person selling or offering for sale . . . [a] security. . . .” Cal. Corp.
 3 Code § 25400(d). In addition, § 25500, which “creates the private remedy for violations of section
 4 25400,” under which Plaintiff brings this action, “is limited to intentional misrepresentations” by
 5 someone who “willfully participate[s]” in the sale or offering of securities. *Cal. Amplifier*, 94 Cal.
 6 App. 4th at 111-13. Section 25500 “make[s] it clear that liability requires a knowingly false
 7 statement made with the deliberate intent to manipulate the price of a security.” *Id.* at 111.

8 For the same reasons discussed, *supra* §§ V.A.1, V.B.1, Plaintiff does not plausibly allege
 9 that Coinbase made any “false or misleading” statement or “omitted to state any material fact.”
 10 Cal. Corp. Code § 25400(d). That is enough for dismissal. But the bases for dismissal do not end
 11 there: Plaintiff has also failed to adequately plead scienter and loss causation.²²

12 There are no plausible allegations that Coinbase “knew or had reasonable ground to believe”
 13 the alleged misstatements or omissions were “false or misleading.” *Id.*; *see supra* §§ V.A.1, V.B.1.
 14 And as Plaintiff fails to state a violation of § 25400(d), there can be no liability for “willfully
 15 particpat[ing]” in such a violation under § 25500. *See Cal. Amplifier, Inc.*, 94 Cal. App. 4th at 112
 16 (noting “the high level of scienter required for a violation of section 25500”). Plaintiff’s mere
 17 assertions that Coinbase “intentionally concealed” information and that Coinbase acted with an
 18 “intent to deceive or defraud,” ¶¶ 227, 229, amount to no more than “formulaic recitation of” an
 19 element of the cause of action, which does not suffice to state a claim, *Twombly*, 550 U.S. at 555.

20 A claim under §§ 25400(d) and 25500 must also be dismissed where a plaintiff has “not
 21 adequately allege[d] . . . fraudulent misstatements and omissions caused its alleged losses.” *Irving*
 22 *Firemen’s Relief & Ret. Fund v. Uber Techs., Inc.*, 998 F.3d 397, 401 (9th Cir. 2021) (emphasis
 23 added). Here, “the ultimate issue is whether the defendant’s misstatement, as opposed to some
 24 other fact, foreseeably caused the plaintiff’s loss.” *Id.* at 407 (citations and quotations omitted).

25

26 ²² Liability under these provisions is also limited “to a defendant who is either a person selling or
 27 offering to sell or buying or offering to buy a security.” *Kamen v. Lindly*, 94 Cal. App. 4th 197,
 28 206 (2001). Plaintiff has not adequately alleged that **Coinbase** sold or offered to sell UST, *see supra* § V.E.1., or that it is a “a broker-dealer or other person selling or offering for sale or purchasing or offering to purchase the security” under § 25400(d).

1 Plaintiff does not allege that any revelation to the market *by Coinbase* caused UST to lose its peg
 2 and fall in value. *E.g.*, ¶¶ 82-84; *see supra* § V.A.3.

3 *(b) Plaintiff Fails to Plead Secondary Liability under § 25504.1*

4 Plaintiff bizarrely references California Corporations Code § 25504.1 in Count VII. ¶¶ 223-
 5 24. Section 25504.1 makes “[a]ny person who materially assists in” certain specified securities law
 6 violations “jointly and severally liable with any other person liable . . . for such violation.” Cal.
 7 Corp. Code § 25504.1. This statute also requires an “intent to deceive or defraud.” *Id.*

8 If Plaintiff alleges liability under § 25504.1 for violating § 25400(d), his claim is untenable.
 9 Section 25504.1 does **not** specify §§ 25400(d) or 25500 as provisions for which it provides a cause
 10 of action. *See* Cal. Corp. Code § 25504.1; *see also* *Kamen*, 94 Cal. App. 4th at 204.

11 To the extent Plaintiff pivots from § 25400(d) in Count VII and alleges a claim under
 12 § 25504.1 for a violation of § 25401, his claim is unavailing. As discussed *supra* § V.A.1, and
 13 most importantly, Plaintiff “failed to plausibly allege . . . a materially false or misleading statement”
 14 by either Coinbase or another primary violator of § 25401. Therefore, Plaintiff has failed to allege
 15 a predicate violation of the California securities laws. *Kalin*, 2022 WL 16935782, at *6; *OCG*
 16 *Energy, LLC v. Shen*, 2023 WL 2628689, at *7 (C.D. Cal. Jan. 11, 2023) (primary and secondary
 17 violation both needed to state § 25504.1 claim). The FAC does not plausibly allege that **anyone**
 18 made a misrepresentation or omission in violation of § 25401 and so Plaintiff does not explain **who**
 19 Coinbase materially assisted in violating § 25401. *Cf. Hollifield v. Resolute Cap. Partners Ltd.,*
 20 *LLC*, 2023 WL 8168831, at *6 (C.D. Cal. Aug. 1, 2023) (“Rule 9(b) requires identifying ‘the who,
 21 what, when, where, and how of the misconduct charged.’”). Nor does Plaintiff adequately allege
 22 that Coinbase **materially assisted** in any such violation. Plaintiff’s claim thus falls far short.

23 Further, Plaintiff merely asserts that Coinbase acted with an “intent to deceive or defraud,”
 24 ¶ 229, which is again no more than a “formulaic recitation of” an element of the cause of action,
 25 *Twombly*, 550 U.S. at 555. And even more so, Plaintiff does not allege a misstatement or omission
 26 known to be misleading **by anyone**, and as a result, there can be no intent “to induce reliance on [a]
 27 knowing misrepresentation or omission.” *Apollo Cap. Fund, LLC v. Roth Cap. Partners, LLC*, 158
 28 Cal. App. 4th 226, 257 (2007) (internal quotation marks omitted).

5. Plaintiff Fails to Plausibly Allege He Engaged in Securities Transactions

Finally, Plaintiff’s theory that Coinbase violated California securities laws is premised on the erroneous assumption that every sale of UST involved the sale of a security. ¶¶ 1, 9, 31, 36-40. But “[e]ach *transaction* must be analyzed and evaluated on the basis of the content of the instruments in question” to determine if an asset is a security. *Marine Bank v. Weaver*, 455 U.S. 551, 560 n.11 (1982) (emphasis added); *see also Donovan v. GMO-Z.com Tr. Co., Inc.*, 779 F. Supp. 3d 372, 386 (S.D.N.Y. 2025) (in private litigation—as opposed to enforcement cases brought by the SEC— “[t]he Court’s inquiry is necessarily limited to the alleged contracts, transactions, or schemes in which Plaintiffs themselves engaged”). Plaintiff makes no attempt to show that each of ***Plaintiff’s purchases of UST on Coinbase*** satisfy each element of the test in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946) or California state law; instead, his allegations are entirely conclusory. For example, he asserts that the “common enterprise” element of *Howey* was met because “[t]he fortunes of UST investors were tied to one another” and to Terraform and its founder, ¶ 33, but fails to identify how that was the case with respect to his specific purchases. Similarly, he asserts that he “expected profits” “based on the managerial and entrepreneurial efforts of Terraform,” ¶ 34, but does not specify what those efforts were, how they relate to his UST purchases, or how that is consistent with his primary contention that UST purchasers expected UST to remain pegged to the USD. These deficiencies are fatal. *See Donovan*, 779 F. Supp. 3d at 386 (plaintiff must allege in more than “conclusory terms” that digital asset is a security in the specific “circumstances and arrangement of its offer or sale”); *Real v. Yuga Labs, Inc.* No. 22-cv-08909, Dkt. 288 at 9-12, 16, 17-18 (C.D. Cal. Sept. 30, 2025) (dismissing complaint that failed to adequately allege that digital assets “were offered as investments,” that there was commonality, or that “plaintiffs reasonably expected any profits”). And while Plaintiff refers to the “risk capital test,” ¶ 38, he provides ***zero*** analysis of how it allegedly applies in this case. This is no more than a “formulaic recitation of the test, *see* ¶ 39, which does not state a claim, *Twombly*, 550 U.S. at 555.²³

26 ²³ Plaintiff does not explain—or sufficiently allege—how his UST transactions satisfy the elements
27 of: “[1] an attempt by an issuer to raise funds for a business venture or enterprise; [2] an
28 indiscriminate offering to the public at large where the persons solicited are selected at random; [3] a
passive position on the part of the investor; and [4] the conduct of the enterprise by the issuer
with other people’s money.” *People v. Black*, 8 Cal. App. 5th 889, 900 (2017).

1 Although Plaintiff seeks to rely on the *SEC v. Terraform Labs* case, ¶ 34, that case did not
 2 concern transactions in UST akin to Plaintiff's purchases here, where the very foundation of his
 3 claims is that purchasers did not anticipate that the price would deviate from \$1. Instead, it involved
 4 the alleged issuers of UST, Terraform, and its principals, encouraging investors to deposit their
 5 tokens into the Anchor Protocol on promise of a 20% profit. 684 F. Supp. 3d 170, 195 (S.D.N.Y.
 6 2023). Plaintiff does not allege that his purchases on Coinbase had any relation to the Anchor
 7 Protocol. Indeed, the district court in that case even noted that "the tokens, if taken by themselves,
 8 might not qualify as investment contracts" and thus qualify as securities. *Id.* at 194.

9 This case is more akin to *SEC v. Ripple Labs, Inc.*, where the court held that secondary
 10 market offers and sales of a digital asset on centralized exchanges were not securities transactions
 11 because the purchasers in that case "could not have known if their payments of money went to
 12 Ripple, or any other seller of [the digital token]." 682 F. Supp. 3d 308, 328 (S.D.N.Y.). So too
 13 here, Plaintiff is a secondary market purchaser who fails to plead from *whom* he purchased UST.

14 What's more, the entire theory of Plaintiff's case is that he thought UST was "price-stable"
 15 and backed by a "tangible reserve asset." ¶¶ 90-95. Plaintiff's transactions in UST therefore are
 16 no different than the digital asset in *Donovan*, which was advertised as pegged to the Japanese yen.
 17 779 F. Supp. 3d at 388. There, the court held that purchasers could not "reasonably expect to earn
 18 a profit derived primarily from the entrepreneurial or managerial efforts of [the issuer of the digital
 19 asset] or any other third parties promoting the asset or the blockchain technology on which it
 20 operates." *Id.* In short, "[i]t is not enough for Plaintiff[] to allege in conclusory terms that a digital
 21 asset is an investment contract disconnected from the circumstances and arrangement of its offer
 22 or sale." *Id.* at 386. While Plaintiff generally alleges that UST was a security, ¶¶ 31-40, he does
 23 not allege facts demonstrating that each specific transaction at issue was a securities transaction.
 24 The California Corporations Code claims are thus also subject to dismissal on this basis.

25 **VI. CONCLUSION**

26 The Court should dismiss the FAC in its entirety with prejudice.

27

28

1 Dated: October 13, 2025

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3 PAUL, WEISS, RIFKIND, WHARTON &
4 GARRISON LLP

5 By: /s/ Randall S. Luskey

6 Randall S. Luskey

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